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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 SOUTHERN DIVISION

11 UNITED STATES OF AMERICA,) SA CR 08-275 AHS
12)
13 Plaintiff,)
14)
15 v.) ORDER DETAINING DEFENDANT
16) PENDING TRIAL OR FURTHER ORDER
17 VINCENT DEAN MALICEK, JR.) OF COURT
18)
19 Defendant.)
20 _____)

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I.

PROCEDURAL BACKGROUND

On October 3, 2008, defendant was named in a Criminal Complaint, charging violation of 18 U.S.C. § 2113(a), (d) (armed bank robbery). A one-count Indictment charging the same offense was filed on October 22, 2008. Defendant made his initial appearance in the Central District of California before Magistrate Judge Goldman on October 6, 2008. On that date, Magistrate Judge Goldman ordered defendant detained.

On November 11, 2008, defendant filed a Motion for Revocation of Detention Order. On November 13, 2008, the Court received an updated Pretrial Services Report, along with the

1 Report dated October 6, 2008, both recommending detention. The
2 matter came before the Court for hearing on November 17, 2008.

3 **II.**

4 **FINDINGS IN SUPPORT OF DETENTION**

5 After hearing the proffers and arguments of counsel,
6 and after consideration of defendant's motion, the Pretrial
7 Services Report dated October 6, 2008, and the second Pretrial
8 Services Report received on November 13, 2008, the Court ordered
9 defendant detained. The Court now enters its Findings of Fact
10 and Conclusions of Law in support thereof.

11 The Court finds that the government has shown by a
12 preponderance of the evidence that defendant poses a serious
13 flight risk, and by clear and convincing evidence that defendant
14 poses a danger to the community. See United States v. Gerbo, 948
15 F.2d 1118, 1121 (9th Cir. 1991). The Court further finds that no
16 conditions of release, or combination of conditions, will
17 reasonably assure the appearance of defendant or the safety of
18 the community. 18 U.S.C. § 3142(e). In making these findings,
19 the Court has considered the nature and circumstances of the
20 offense charged, the weight of evidence against defendant, the
21 history and characteristics of defendant, and the nature and
22 seriousness of the danger to any person or to the community. Id.
23 § 3142(g). Specifically, the Court finds:

24 a. The nature of defendant's offense and length of
25 imprisonment defendant faces if he is convicted at trial in this
26 case gives rise to a serious risk that defendant will flee.

27 b. Although the Court has received updated
28 information concerning defendant's resources for posting an

1 appearance bond, the Court finds theses resources inadequate and
2 inappropriate.

3 c. Defendant's record and personal background, as
4 disclosed in the Pretrial Services Report and discussed at
5 hearing, also indicate that defendant is a serious flight risk.
6 Defendant's record includes a prior failure to appear and a
7 probation violation and revocation. Defendant's various
8 addresses of record show lack of certainty of residence, and
9 defendant has been unemployed for the past eighteen months.
10 Prior to the instant charged offense, defendant was residing with
11 and being supported by his mother. Finally, although defendant's
12 passport has been confiscated, defendant recently had plans to
13 travel abroad.

14 g. The conduct of the charged offense, lack of
15 certainty of defendant's residence, lack of employment, prior
16 probation, and offense history raise concerns about defendant's
17 risk of danger to the community.

18 h. Evidence of substance abuse and a firearm
19 registered in defendant's name also shows that defendant poses a
20 danger to the community.

21 For the foregoing reasons, the Court finds defendant
22 poses a serious risk of flight, poses a danger to the community,
23 and that no condition, or combination of conditions, can
24 reasonably assure the appearance of defendant or the safety of
25 the community.

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III.

CONCLUSION

Accordingly and for the foregoing reasons, the Court orders defendant detained and committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal and where defendant may be afforded reasonable opportunity for private consultation with counsel.

The Court further orders that, on order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which defendant is confined shall deliver defendant to a United States Marshal for the purposes of an appearance in connection with a court proceeding.

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Clerk shall serve a copy of this Order on counsel for all parties in this action.

Date: November 19, 2008.

ALICEMARIE H. STOTLER

ALICEMARIE H. STOTLER
CHIEF U.S DISTRICT JUDGE

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